



515 North Washington Street
Alexandria, Virginia 22314-2357
Phone (703) 836-6767
Cable Address IACPOLICE

President
Sylvester Daughtry, Jr.
Chief of Police
Greensboro, NC

Immediate Past President
Steven R. Harris
Chief of Police
Redmond, WA

First Vice President
John T. Whetzel
Chief of Police
Choctaw, OK

Second Vice President
David G. Walchak
Chief of Police
Concord, NH

Third Vice President
Darrell L. Sanders
Chief of Police
Frankfort, IL

Fourth Vice President
Thomas A. Constantine
Superintendent
New York State Police
Albany, NY

Fifth Vice President
Bobby D. Moody
Chief of Police
Covington, GA

Sixth Vice President
Ronald S. Neubauer
Chief of Police
St. Peters, MO

International Vice President
Ronald Hadfield
Chief Constable, QPM
West Midlands Police
Birmingham, England

Treasurer
G. H. (Gill) Kleinknecht
Associate Commissioner
for Enforcement
U.S. Immigration and
Naturalization Service
Washington, D.C.

Division of State
and Provincial Police
General Chairman
Maurice J. Hannigan
Commissioner
California Highway Patrol
Sacramento, CA

Division of State Associations
of Chiefs of Police
General Chairman
Larry G. Vardell
Chief of Police
Williamsburg, VA

Parliamentarian
Michael R. Santos
Police Legal Advisor
City of Overland Park
Overland, KS

Executive Director
Daniel N. Rosenblatt
Alexandria, VA

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Allocation of Spectrum Below)
5 GHz Transferred from)
Federal Government Use)

ET Docket No. 94-32

RECEIVED

To: The Commission

JUN 14 1994

COMMENTS OF THE FCC MAIL ROOM
INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

1. The International Association of Chiefs of Police (IACP), an organization of more than 14,000 law enforcement administrators, predominantly at the State and local government levels in the United States, who bear the responsibility for the performance of their departments and agencies, submits these comments in the ET Docket No. 94-32 Notice of Inquiry (NOI)¹ with reference to Footnote 21 of the Inquiry in which the Commission includes for consideration in the proceeding the Petition for Rule Making by

¹ Adopted by the Commission on April 20, 1994 and released by the Commission on May 4, 1994.

the Coalition of Private Users of Emerging Multimedia Technologies (COPE)² .

Purpose of NOI

2. The purpose of the NOI, according to the Commission, is to seek information on potential applications for 50 megahertz of spectrum in the bands 2390-2400 Mhz, 2402-2417 Mhz and 4660-4685 Mhz which has been identified by the National Telecommunications & Information Administration (NTIA)³ for immediate transfer from Federal Government to private sector use in accordance with the Omnibus Budget Reconciliation Act of 1993⁴ . The Reconciliation Act requires that the Commission adopt regulations to allocate, and propose regulations to assign, this first 50 megahertz of spectrum by February 10, 1995.

3. The Commission asks that comments in response to the NOI focus generally on the 50 Mhz identified in the three above bands rather than on an additional 150 Mhz in seven other bands identified by NTIA in its Preliminary Spectrum Reallocation Plan as reallocation targets in subsequent actions in 1996, 1997, 1999 and 2004. These bands are: 1390-1400 Mhz; 1427-1432 Mhz; 1670-1675 Mhz; 1710-1755 Mhz; 2300-2310 Mhz; 3650-3700 Mhz; and 4635-4660 Mhz. In so doing, the Commission encourages interested

² Filed with the Commission on December 23, 1993.

³ Preliminary Spectrum Reallocation Report, U.S. Department of Commerce, NTIA Special Publication 94-27, February, 1994 (Commerce Report).

⁴ Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI, 6001(a)(3), signed into law August 10, 1993.

parties to participate in ". . .the Department of Commerce's process to make a final identification of spectrum for reallocation by filing comments with the Department."

Public Safety Recognition

4. The NOI recognizes that: "The Reconciliation Act has reaffirmed the on-going responsibility of the Commission to consider the spectrum and interoperability needs of the public safety community when making spectrum allocation decisions. We request comment on the utility for public safety communications systems of the spectrum identified for immediate reallocation, including comment on the degree to which the proposed spectrum could help increase the ability of all public safety workers to communicate with each other."⁵

5. Further, the NOI notes that: "The Reconciliation Act requires that the FCC, by February 1995, complete a study of current and future spectrum needs of public safety agencies through the year 2010 and develop a specific plan to satisfy those needs. The Act also requires that, at least biannually, the Chairman of the FCC and the Assistant Secretary of Commerce shall meet to conduct joint spectrum planning with respect to, among other issues, the future spectrum requirements for public safety agencies and spectrum allocation actions necessary to accommodate those needs."⁶

⁵ NOI, 9(f).

⁶ NOI, Footnote 24.

National Information Structure

6. In the NOI, the Commission explains: "This Commission has established the goal of creating a national information infrastructure that will provide access to all as a means of boosting productivity, creating jobs, educating children, and improving the provision of health care. In discussing uses for the spectrum to be reallocated, parties should discuss the contribution that a proposed service can make toward meeting this goal, especially in meeting public interest concerns, such as extending service to unserved or unde(r)served communities or extending educational opportunities and medical services. They should also discuss the growth potential for the Nation's economy offered by the proposed services. For example, what would be the amount and nature of investment in the national information infrastructure and what employment opportunities would be created as a result of introducing a proposed service?"⁷

IACP's Position

7. Both on its own and in concert with other organizations, IACP has participated in the Congressional hearing processes which have resulted in the legislation that now, finally, requires NTIA to turn over some spectrum for non-Federal uses. Unfortunately, from the perspective of the law enforcement agencies in the major population centers of the United States and the people whose lives and property they are required to protect, NTIA's Preliminary Plan falls far short of meaningful progress.

⁷ NOI, Paragraph 9.

8. The spectrum "relief" for public safety being considered in the NOI in ET Docket No. 94-32 will not provide the spectrum basis for the advanced technology tools which the law enforcement community needs, particularly in the major metropolitan areas where they are most needed. It will most certainly not be of help with respect to the mandate to the Commission to ". . .by February 1995, complete a study of current and future spectrum needs of public safety agencies through the year 2010 and develop a specific plan to satisfy those needs." IACP cannot visualize how reallocation of the spectrum as proposed can substantially increase the ability of all public safety workers to communicate with each other.

9. Even worse, in the more than ten years since the 1983 Congressional directive to the Commission to provide adequate spectrum for State and local government operations⁸, the Commission has given, or is planning to transfer vast amounts of spectrum away for other types of uses that there may be no usable

⁸ On December 8, 1983, Congress enacted the Fiscal Year 1984-85 Authorization Bill for the Commission, with Section 9 of that bill providing: "Sec.9.(a) Funds authorized to be appropriated under section 2 of this Act shall be used by the Federal Communications Commission to establish a plan which adequately ensures that the needs of State and local public safety authorities would be taken into account in making allocations of the electromagnetic spectrum. In establishing such a plan the Commission shall (1) review the current and future needs of such public safety authorities in light of suitable and commercially available equipment and (2) consider the need for a nationwide contiguous frequency allocation for public safety purposes. (b) Pending adoption of a plan, the Commission, while making assignments and allocations, shall duly recognize the needs of State and local public safety authorities."

spectrum left to provide for public safety, which the Communications Act has specified for decades as its Number One prior second only to national defense uses. The 1983 legislation should have taken care of public safety's problems as seen at that time. Its implementation, however, has left much to be desired, and in its pressures to respond to other spectrum claimants, the Commission has allocated and continues to allocate spectrum while public safety's problems have not only persisted but have escalated, particularly in the urban areas of the country.

10. The law enforcement community, as a responsible and enthusiastic segment of the American social structure, welcomes the technological advances which have been seen with respect to cellular communications and which are in the offing with respect to Personal Communications Services, the "national information infrastructure", advanced television services, and the many other types of commercial offerings which the Commission is on a fast track to make operational. Emerging new technologies such as envisioned by NCIC-2000, as well as wider use of video computer graphics will allow police and other public safety providers the opportunity to serve their constituents better. Public safety radio requirements cannot be met by carrier-provided service, however, and the time is overdue for both the Commission and NTIA to satisfy public safety's requirements. The plan of action contemplated in ET Docket No. 94-32 is not acceptable. More must be done.

NTIA Preliminary Plan

11. The three bands on which the Commission specifically requests comment are: 1) 2390-2400 MHz, 2) 2402-2417 MHz and 3)

4660-4685 MHz. The NOI itself, based on information supplied by NTIA and asking questions offered from within the Commission, explains the reasons why these bands offer little additional useful spectrum for the types of communications systems which law enforcement agencies in the United States require and can afford.

12. IACP is advised by the radio equipment manufacturers, and believes, that the identified frequencies above 3000 MHz -- half of those identified by NTIA -- are not useful for wide area land mobile applications now or in the immediate future since there has been no development to date of devices to support equipment in those bands. The other half of the frequencies identified (below 3000 MHz) are already widely used for non-government purposes which, according to the Commission, are expected to grow. The latter include microwave ovens operating in close proximity to the 2402-2417 MHz range, commercial unlicensed Part 15 devices, and amateur radio operations.

13. The expertise to answer further the technical questions asked by the Commission is not within the IACP organization, but rather is available in NTIA, the Commission and the Telecommunications Industry Association's membership.

New Services

14. If history is a guide, the communications departments of the country's larger law enforcement agencies will undoubtedly be the testing and implementation grounds for non-Federal high technology law enforcement and other public safety communications products which are now being used at the Federal level, particularly in the Department of Defense, where spectrum has been more abundant and

expense less critical a concern than it would be at the local governmental level. New products which will help in the war on crime are on the manufacturers' drawing boards today awaiting only the release of spectrum to sustain their operation to reach the marketplace.

15. These new services and products, akin to traditional public safety, industrial, business and land transportation operations will be designed in recognition of the fact that the needs of these users are no longer limited to voice communications but have expanded to include video, graphics, digital data, and other media. Their designation as "Private Land Mobile Communication Services" in the COPE petition denotes internal-use communications systems that are licensed to the actual users of the systems and controlled and operated by those users/licensees.

COPE Petition

16. A catalogue of new services, each responsive to its sector's requirements, is on tap for the other groups of private users participating in the COPE petition, subject only to frequency availability.

17. The COPE petition asks the Commission to initiate a rulemaking proceeding to allocate 75 MHz of spectrum, in the aggregate, for the development of an "Advanced Private Land Mobile Communications Service," which would support systems designed to meet the unique needs of the private radio user community for advanced wireless imaging and decision processing/remote file access capabilities. IACP strongly urges the Commission to move ahead in that direction as a step beyond its Part 88 "Refarming"

proposals, which will not provide sufficient new spectrum for development of the advanced new private communications technologies. While the Commission's recent actions looking toward development of Personal Communications Services will provide adequate spectrum to accommodate carrier-provided services, there is a clear and compelling need for a separate allocation of spectrum for private radio users to accommodate requirements that cannot be met by the carrier-provided PCS systems.

18. As the COPE petition points out, an allocation of spectrum as proposed by COPE is integral to the advancement of major policy initiatives of the Clinton Administration in the areas of crime control, energy conservation and management, emergency response and rescue, health care, pollution control and improved industrial productivity. Further, it is expected that these same or similar applications might be desired by Federal users, and COPE suggests that a shared government/non-government allocation would facilitate the development of equipment that could be used by either private sector users or Federal agencies.

19. The requested allocation would also meet the Congressional mandates of the 1993 Budget Reconciliation Act which direct that the FCC and NTIA perform joint spectrum planning with respect to "future spectrum requirements for public and private uses, including State and local government public safety agencies."

20. IACP supports COPE's request for an allocation of spectrum below 3 GHz in the vicinity of the 2 GHz band, and its request that the spectrum be reallocated from Federal government pursuant

to processes consistent with the 1993 Budget Act. Allocation of spectrum for the Advanced Private Land Mobile Communications Service on a shared Government/nongovernment basis would also be consistent with the Budget Act's provisions on "mixed-use" allocations.

Summary

21. In summary, while IACP believes that good and productive use of some kind can be made of any spectrum reallocated from Federal government to nongovernment use, the bands identified by NTIA for immediate transfer would be of little value to the law enforcement community on the terms and conditions offered by NTIA. They certainly would be no answer to public safety's long, agonizing pursuit of adequate spectrum to get into operation the many new types of equipment and systems that technology now offers. IACP strongly urges the Commission to move as promptly as possible in the direction requested by the COPE petition.

June 10, 1994



Harlin R. McEwen, Chairman
Communications Committee
International Association of
Chiefs of Police

Chief of Police
Ithaca Police Department
120 East Clinton Street
Ithaca, New York 14850-5689
Telephone (607) 272-9973